



**MICHIGAN  
LEAGUE OF  
CONSERVATION  
VOTERS**

October 4<sup>th</sup>, 2017

To: Members of the Senate Oversight Committee

From: Charlotte Jameson, Government Affairs Director, Michigan League of Conservation Voters

Re: Testimony in Opposition to House Bill 4205

The Michigan League of Conservation Voters (LCV) is the non-partisan, political voice for Michigan's land, air, and water. On behalf of our statewide membership and our Board of Directors, Michigan LCV expresses our opposition to House Bill 4205. **Michigan LCV reserves the right to score in favor of NO votes on House Bills 4205.**

This bill would largely prohibit Michigan administrative agencies from promulgating or adopting rules that are more stringent than parallel federal standards. The only exception to this would be if the Director of an agency could demonstrate that there was a clear and convincing need to exceed the federal standard. In Michigan, our Great Lakes and natural resources are central to our economy and our way of life, and as such they warrant the utmost protection.

**One Size Fits all Federal Standards:** Instead of giving state agencies the flexibility they need to develop a regulatory structure that fits Michigan's unique attributes, HB 4205 would essentially defer critical decisions about the protection of our natural resources and public health to the federal government. Federal standards are intended to be a floor, not a ceiling. They do not account for the unique attributes of individual states. Flexibility in agency rulemaking is an essential governance tool to ensure that our regulations are fully adequate to protect Michigan's natural resources and public health. The people of the State of Michigan, our Quality of Life Departments and our legislature should be charged with setting our rules and regulations, not the Federal Government.

**Regulating in Crisis Mode Only:** Furthermore this bill would restrict Michigan agencies to only regulating in "crisis mode" and would take away Michigan's ability to be proactive in protecting our environment and quality of life. Without some kind of crisis or looming crisis Michigan agencies would be very limited in their ability to meet the clear and convincing need standard that allows agencies to go beyond federal minimum standards. Under this bill then agencies would not be able to proactively craft rules that protect our public health and natural resources before a disaster happens.

**Increase Litigation and Legal Costs:** By adopting this bill, there is little doubt that the legislature would open up our rulemaking process to more litigation and unnecessary resource burdens on state agencies to defend state rules.

Environmental rules are often challenged in court, and this bill would expose the state to a new avenue for legal challenges. Under this bill rules could be challenged on the basis of understanding and defining whether a state rule is in fact stricter than a federal rule. In many cases, there may be no relevant federal rule, or the state's regulation may be a technical attempt to clarify a federal rule. It would therefore be difficult to sort out what exactly constitutes an "applicable federal standard," and whether it is "more stringent." Additionally the 'clear and convincing need' standard has no clear legal meaning and has been interpreted by judges in a variety of way. The lack of clarity on the standard for going beyond a federal minimum rule would also result in increased legal costs and litigation.

**Exposure to Unsafe Chemicals:** This bill would hamstring agencies from putting in place common sense protections for our health and wellness. Right now in Plainsfield Township, Oscoda, and Grayling residents are suffering from exposure or potential exposure to harmful polyfluoroalkyl substances called PFAS, (also called perfluorinated chemicals, or PFCs). PFOA exposure has been linked through human studies to kidney cancer, testicular cancer, ulcerative colitis, pregnancy-induced hypertension, thyroid problems and cholesterol issues. The current federal health advisory limit for these substances is 70 parts-per-trillion, however negative health effects have been noted at lower concentrations than the EPA advisory limit in extensive studies of PFOA exposure. If HB 4205 were to pass Michigan would be unable to set a more protective exposure limit for PFAS and PFOAs.

Michigan LCV respectfully request that members of the Senate Oversight Committee oppose HB 4205.

**Again, please note that Michigan LCV reserves the right to score a vote on HB 4205 on our Legislative Scorecard.**